

T-17J

April 12, 1996

Mr. Ben Wopat, Chief
Regulatory Branch, St. Paul District
U.S. Army Corps of Engineers
190 Fifth Street East
St. Paul, MN 55101

RE: Government Meetings/Crandon Mine Project

Dear Mr. Wopat:

As the U.S. Environmental Protection Agency's (EPA) Crandon Mine Project's Team Leader, I have become concerned over the continued practice of closed technical meetings involving the U.S. Army Corps of Engineers (COE). Namely, the scheduled Tailings Management Meeting (TMA) to be held on Monday, April 15, 1996 in your office and a groundwater modeling meeting (FEMWATER vs. MODFLOW) scheduled to be held at your offices on April 23, 1996 are presently of concern. I would be glad to work with the COE in developing a project protocol on dealing with the issue of the relationships between each of the federal agencies and the tribal governments involved in this project and who needs to be involved in what types of meetings.

Presently, at issue is the TMA meeting scheduled for April 15, 1996. While this meeting is open for the EPA to participate, the Tribes and other federal regulatory agencies (U.S. Bureau of Indian Affairs, U.S. Fish and Wildlife, etc.) were neither informed of nor invited to the meeting. Initially, I was informed that the TMA meeting was to be only a coordination meeting between the two leads in the respective state (Wisconsin Department of Natural Resources (WDNR)) and federal (COE) Environmental Impact Statements (EIS) and that the EPA was invited since we provided comments on the TMA Feasibility Report, but after viewing the draft agenda, it is obvious that the meeting is considerably more in-depth than just the coordination of the review of the Environmental Impact Report (EIR)/EIS documents. Topics such as liner and cover conceptual design, footprint location and wetland issues are issues that are beyond the scope of coordination and are issues of concern to the other federal agencies and Tribes. Also, neglected is the fact that the tribal representatives have routinely attended the WDNR's TMA meetings and continually provide verbal comments at those meetings and therefore should also be included in how to coordinate comments regarding the TMA and EIS. In consideration of the above, if the COE and WDNR truly wish to have a "Coordination" meeting amongst the leads in the respective

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federal and state EIS process, then the EPA declines the offer to attend since it is recorded that the EPA is not a "cooperating" agency with respect to writing the federal EIS but will continue to be a reviewer and commentor. If at this TMA meeting, the COE intends to discuss technical issues beyond the "coordination" stages as apparent in the draft agenda, then the EPA declines to

attend until other interested governmental stakeholders are and continue to be given the option to attend.

Also, presently of issue is that on April 23, 1996, the COE has tentatively planned a groundwater modeling meeting to discuss the COE's selection and use of the FEMWATER model and the advantages/disadvantages of FEMWATER compared to the applicants groundwater model, MODFLOW. Initially, this meeting was planned for April 9, 1996 but was canceled due to the unavailability of COE's contractor, Waterways Experimental Station (WES). From my understanding, WDNR and the applicant, Crandon Mining Company, disagree with or have issue with the use of the COE/WES's decision to run the FEMWATER model and at this meeting will try to dissuade your use of this model by presenting the superior attributes of the MODFLOW model at this meeting. Again, EPA was invited to attend this meeting but as you know, the Tribes and several other federal agencies have also attended the regular WDNR groundwater modeling meetings with extreme interest, so I feel it is inappropriate not to invite all the interested governmental stakeholders to the MODFLOW vs. FEMWATER meeting. Therefore, EPA thanks the COE for the invitation to attend this meeting but must also decline participation in this meeting unless the other governmental stakeholders are given the option of attending.

EPA appreciates and applauds the COE's efforts thus far on this difficult project but also strongly encourages the COE to review the President's April 29, 1994, directive for federal agencies to treat federally recognized Tribal governments on a government-to-government basis (59 FR 22951). With that in mind, regardless of the Tribes' stance on the proposed mine issue, the Tribes, as fellow governmental entities, need to be included in this process as do the other interested federal governmental agencies.

I look forward to continue working with you and the COE on this project and building on our partnership. As mentioned above, I would be glad to assist the COE, other federal agencies and tribal governments in developing a project protocol or Memorandum of Understanding on agency-to-agency and government-to-government involvement/interaction during the EIR/EIS process. If you have any concerns regarding the above or any other issue relating to the project and/or EPA, please feel free to contact me at (312) 886-7252.

Sincerely,

Daniel J. Cozza
U.S. Environmental Protection Agency
Crandon Mine Team Leader

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cc:

Bill Tans, WDNR
Dave Ballman, COE
Ron Spry, U.S. FWS
Jim Krohelski, U.S. GS
Herb Nelson, U.S. BIA
John Griffin, Mole Lake
Llewellyn Boyd, Menominee
Mark Kuester, U.S. BIA
Don Moe, Crandon

John Koss, Menominee
Ken Fish, Menominee
Greg Bunker, Stockbridge-Munsee
John Coleman, GLIFWC
Ann McCammon, GLIFWC
Christine Hansen, FCP
Kathy Condon, Menominee
Steve Dodge, EPA